

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Case No. 2:09-cr-00222-HDM-PAL

Plaintiff,

v.

ORDER

ANTHONY SWANSON,

Defendant.

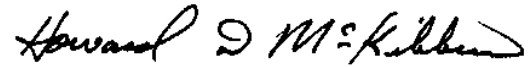
The defendant, Anthony Swanson, has filed a motion for reduction of sentence pursuant to 18 U.S.C. § 3582 and U.S.S.G. § 4C1.1 (ECF No. 243). Swanson's motion presumably relies on Amendment 821 to the United States Sentencing Guidelines, which created § 4C1.1. On January 12, 2024, the Federal Public Defender filed a "Notice of Non-Eligibility" pursuant to General Order 2023-09, indicating that Swanson is not entitled to a sentence reduction under the provisions cited. The court agrees.

Amendment 821 created U.S.S.G. § 4C1.1, reducing the offense level for certain zero-point offenders, and amended U.S.S.G. § 4A1.1, reducing or eliminating the number of points counted when the offender commits an offense while under a criminal justice sentence. The amendments apply retroactively. As Swanson was not a zero-point offender, § 4C1.1 is inapplicable. And because Swanson was found to be a career offender under the provisions of U.S.S.G. § 4B1.1, his criminal history category remains VI, regardless of whatever effect the amendments to § 4A1.1 may have on his criminal history score.

1 Accordingly, Swanson's motion for relief pursuant to Amendment  
2 821 (ECF No. 243) is DENIED.

3 IT IS SO ORDERED.

4 DATED: This 31st day of January, 2024.

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7 UNITED STATES DISTRICT JUDGE  
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